

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FRANK H. CARBER, III, INDIVIDUALLY)	
AND ON BEHALF OF THE ESTATE OF)	
MARJORIE A. CARBER, AND CHRISTINE)	
CARBER AND ROBERT CARBER,)	Civil Action No. 1:23-cv-00320-SRF
INDIVIDUALLY,)	
Plaintiffs,)	
)	
v.)	
)	
MANOR CARE OF WILMINGTON DE,)	
LLC,)	
Defendants.)	

**DEFENDANT’S ANSWER TO AMENDED COMPLAINT
AND AFFIRMATIVE DEFENSES**

Defendant, Manor Care of Wilmington DE, LLC, by and through its counsel, Buchanan Ingersoll & Rooney P.C., hereby answers Plaintiffs’ Amended Complaint, and asserts its Affirmative Defenses, as follows:

1. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph.
2. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph.
3. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph.
4. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph.
5. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph.

6. The allegations in the corresponding paragraph state conclusions of law to which no response is required.

7. It is admitted that Manor Care of Wilmington DE, LLC is a Delaware limited liability company. The remaining allegations constitute conclusions of law to which no response is required.

8. Denied as stated. It is admitted only that Manor Care of Wilmington DE, LLC was, at all relevant times, the licensed operator of the skilled nursing and rehabilitation facility located at 700 Foulk Rd., Wilmington, DE 19803. The remaining allegations and/or characterizations constitute conclusions of law to which no response is required. To the extent that a further response is required, the remaining allegations and/or characterizations are denied.

9. The allegations contained in the corresponding paragraph are directed to a dismissed defendant and, accordingly, no response is required of this Defendant. To the extent that a further response is required, the allegations constitute conclusions of law and are denied.¹

10. The allegations contained in the corresponding paragraph are directed to a dismissed defendant and, accordingly, no response is required of this Defendant. To the extent that a further response is required, the allegations constitute conclusions of law and are denied.

11. The allegations contained in the corresponding paragraph are directed to a dismissed defendant and, accordingly, no response is required of this Defendant. To the extent that a further response is required, the allegations constitute conclusions of law and are denied.

12. The corresponding paragraph consists of no factual allegations, and no response is required. By way of further response, to the extent that allegations in subsequent paragraphs of the Complaint are directed to “Defendants” and/or HCR III Healthcare, LLC, Defendant respond only

¹ HCR III Healthcare, LLC was dismissed without prejudice per the Court’s Order and Opinion on Defendants’ Motion to Dismiss Plaintiffs’ Amended Complaint. *See* ECF 19 & 20.

on its own behalf, and not on behalf of any other defendant and/or entity. By way of further response, to the extent that the allegations relate to HCR III Healthcare, LLC, they are directed to a dismissed defendant and, accordingly, no response is required of this Defendant.

13. The allegations in the corresponding paragraph state conclusions of law to which no response is required. To the extent that a further response is required, denied as stated.

14. The allegations in the corresponding paragraph state conclusions of law to which no response is required. To the extent that a further response is required, denied as stated, including subparagraphs (a) through (f).

15. The allegations in the corresponding paragraph state conclusions of law to which no response is required. To the extent that a further response is required, denied as stated.

16. Denied.

17. The allegations in the corresponding paragraph state conclusions of law to which no response is required. To the extent that a further response is required, denied as stated.

18. The allegations in the corresponding paragraph state conclusions of law to which no response is required. To the extent that a further response is required, denied as stated.

19. The allegations in the corresponding paragraph state conclusions of law to which no response is required. To the extent that a further response is required, denied.

20. The allegations in the corresponding paragraph state conclusions of law to which no response is required. To the extent that a further response is required, denied.

21. The allegations in the corresponding paragraph state conclusions of law to which no response is required. To the extent that a further response is required, denied.

22. The allegations in the corresponding paragraph state conclusions of law to which no response is required. To the extent that a further response is required, denied.

FACTUAL SUMMARY

23. Answering Defendant incorporates by reference all responses contained in the preceding paragraphs of this Answer.

I. Admission to the Facility

24. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

25. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

26. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

27. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

28. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

29. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the

allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

30. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

31. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

32. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

33. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

34. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

35. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the

allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

36. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

37. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

38. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

39. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

40. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

II. The Many Sized Pressure Ulcer of Mrs. Carber

A. October 21 Discovery of Wound

41. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

42. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

43. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

44. Denied.

45. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

46. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

47. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

48. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

49. Denied.

B. Pressure Ulcer Ignored

50. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

51. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

52. Denied.

53. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

54. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

55. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

56. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

C. The Many Varying Sizes of Pressure Ulcer

57. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

58. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

59. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the

allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

60. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

61. Denied.

62. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

63. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

III. The Many Falls of Mrs. Carber

64. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, the allegations in the corresponding paragraph state conclusions of law to which no response is required, and Defendant is otherwise without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

A. October 23 – Fall #1

65. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the

allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

66. Denied. The allegations in the corresponding paragraph state conclusions of law to which no response is required. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

67. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

68. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

69. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

B. October 28 – Fall #2

70. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

71. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

72. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

73. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, the allegations in the corresponding paragraph state conclusions of law to which no response is required, and Defendant is otherwise without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

74. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, the allegations in the corresponding paragraph state conclusions of law to which no response is required, and Defendant is otherwise without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

75. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

76. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the

allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

77. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

78. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

79. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

C. November 16 – Fall #3

80. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

81. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

82. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied.

83. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

84. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

85. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

86. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

87. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied.

88. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Insofar as a response is required, denied.

D. November 25 – Admission to Hospital from Fall #3

89. The allegations in the corresponding paragraph state conclusions of law to which no response is required. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

90. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

91. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

92. Denied. The allegations in the corresponding paragraph state conclusions of law to which no response is required. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

93. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

94. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

E. December 4 – Fall #4

95. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

96. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

97. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

98. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

99. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the

allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

100. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

F. December 8 – Fall #5

101. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

102. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

103. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

104. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the

allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

105. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

G. January 3 – Fall #6

106. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

107. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

108. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

H. At Least Six Falls in Total

109. The allegations in the corresponding paragraph state conclusions of law to which no response is required. Further, Defendant is without knowledge to admit or deny the allegations

in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

110. Denied.

111. The allegations in the corresponding paragraph state conclusions of law to which no response is required. Insofar as a response is required, denied.

112. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Insofar as a response is required, denied.

IV. January 19 – Diagnosed with Covid

113. Denied. The allegations in the corresponding paragraph state conclusions of law to which no response is required. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

114. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

115. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

116. Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

117. Denied. The allegations in the corresponding paragraph state conclusions of law to which no response is required.

118. Denied. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, the allegations in the corresponding paragraph state conclusions of law to which no response is required, Defendant is otherwise without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

119. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

120. Denied. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, the allegations in the corresponding paragraph state conclusions of law to which no response is required, and Defendant is otherwise without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

121. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, the allegations are denied as stated, and Defendant leaves Plaintiffs to their proofs.

122. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, insofar as a response is required, denied.

123. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Insofar as a response is required, denied.

124. Denied. The allegations in the corresponding paragraph state conclusions of law to which no response is required. Insofar as a response is required, denied.

125. Denied. The allegations in the corresponding paragraph state conclusions of law to which no response is required. Insofar as a response is required, denied.

126. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, Defendant is without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

127. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, the allegations in the corresponding paragraph state conclusions of law to which no response is required, and Defendant is otherwise without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

128. The allegations in the corresponding paragraph purport to characterize a written document that speaks for itself. Further, the allegations in the corresponding paragraph state conclusions of law to which no response is required, and Defendant is otherwise without knowledge to admit or deny the allegations in the corresponding paragraph. Insofar as a response is required, denied as stated, and Defendant leaves Plaintiffs to their proofs.

COUNT I: SURVIVAL CLAIM

129. Answering Defendant incorporates by reference all responses contained in the preceding paragraphs of this Answer.

130. Denied. The allegations in the corresponding paragraph state conclusions of law to which no response is required. Insofar as a response is required, denied.

131. Denied, including subparagraphs a through x.

132. Denied.

133. Denied.

COUNT II: BREACH OF FIDUCIARY DUTY

134. Answering Defendant incorporates by reference all responses contained in the preceding paragraphs of this Answer.

135. Denied. The allegations in the corresponding paragraph state conclusions of law to which no response is required. Insofar as a response is required, denied.

136. Denied.

137. Denied.

138. Denied.

139. Denied.

140. Denied. The allegations in the corresponding paragraph state conclusions of law to which no response is required. Insofar as a response is required, Defendant is without knowledge to admit or deny the allegations concerning knowledge of where “Mrs. Carber’s family lived.” All other remaining allegations and/or characterizations are denied.

141. Denied.

142. Denied.

143. Denied.

COUNT III: NEGLIGENCE PER SE OF DEFENDANTS
BASED ON STATE LAW

144. Answering Defendant incorporates by reference all responses contained in the preceding paragraphs of this Answer.

145. The allegations in the corresponding paragraph state conclusions of law to which no response is required. Insofar as a response is required, denied as stated.

146. The allegations in the corresponding paragraph, including subparts a through d, state conclusions of law to which no response is required. Insofar as a response is required, denied as stated.

147. The allegations in the corresponding paragraph state conclusions of law to which no response is required. Insofar as a response is required, denied.

148. Denied. The allegations in the corresponding paragraph state conclusions of law to which no response is required. Insofar as a response is required, denied.

149. Denied.

150. The allegations in the corresponding paragraph state conclusions of law to which no response is required, and purport to characterize a written document that speaks for itself. Insofar as a response is required, denied.

151. Denied.

COUNT IV: WRONGFUL DEATH

152. Answering Defendant incorporates by reference all responses contained in the preceding paragraphs of this Answer.

153. The allegations in the corresponding paragraph state conclusions of law to which no response is required. Insofar as a response is required, denied.

154. Denied.

WHEREFORE, Defendant prays that judgment be entered in their favor and Plaintiffs' Complaint be dismissed, together with reasonable counsel fees and costs of suit.

GENERAL DENIAL

Defendant denies each and every allegation in the Amended Complaint not specifically admitted herein.

JURY TRIAL

Defendant hereby demands trial by jury on all issues contained herein.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief may be granted.
2. Defendant is free of any and all negligence and/or liability producing conduct.
3. Damages, if any, were the result of the sole negligence of Plaintiffs and/or Plaintiffs' Decedent.
4. Damages, if any, which may have been sustained by Plaintiff and/or Plaintiffs' Decedent, and for which Defendant may become liable, were the result of the intervening and/or superseding acts, negligence and/or fault of other third parties over whom Defendant exercised no control or right of control and for whose actions Defendant is not liable.
5. Defendant did not breach any legal duty to Plaintiffs and/or Plaintiffs' Decedent.
6. Plaintiffs' claims are barred or at the very least damages claimed must be reduced by virtue of the doctrine of comparative negligence under applicable Delaware law.

7. Plaintiffs' claims are barred by the applicable statute of limitations and/or repose which may apply.

8. The discovery rule does not apply and Plaintiffs are barred from maintaining the within suit.

9. Any damages or injuries that may have been suffered by Plaintiffs and/or Plaintiffs' Decedent were not proximately caused by the alleged acts or omissions of Defendant.

10. At all times relevant to the within litigation, Defendant complied with all applicable laws, regulations, specifications, and standards.

11. Plaintiffs' claims are barred because of Plaintiffs' failure to join necessary and indispensable parties.

12. In the event that Defendant is found liable to Plaintiffs, a liability that Defendant denies, any recovery against Defendant is reduced or barred by the conduct of Plaintiffs and/or Plaintiffs' Decedent or by the conduct of other parties.

13. To the extent that any cause of action set forth in the Complaint for which payment was received from collateral sources, such damages are barred.

14. Insofar as, and to the extent that, any injuries, losses and damages to Plaintiffs and/or Plaintiffs' Decedent were the result, in whole or in part, of an ordinary disease of life, idiosyncratic reaction or some other circumstance, event or exposure, responsibility for damages to the extent thereof must be apportioned and allocated, in whole or in part to such cause(s).

15. Defendant cannot be liable for any prejudgment interest on any claimed damages not yet incurred by Plaintiffs.

16. The Complaint is barred by the doctrine of waiver.
17. The Complaint is barred by the doctrine of estoppel.
18. Plaintiffs' claims are preempted by the Public Readiness and Emergency Preparedness Act.
19. Defendant is immune from liability and suit under the Public Readiness and Emergency Preparedness Act.
20. Plaintiffs failed to exhaust administrative remedies and/or procedural prerequisites under the Public Readiness and Emergency Preparedness Act.
21. To the extent to which Plaintiffs assert claims related to willful misconduct, all such claims must be brought in the United States District Court for the District of Columbia pursuant to 42 U.S.C. § 247d-6d(e)(1)(5).
22. This Court lacks subject matter jurisdiction by virtue of Defendant's immunity from liability and suit under the Public Readiness and Emergency Preparedness Act.

RESERVATION OF DEFENSES AND OBJECTIONS

Defendant hereby reserves the right to amend or assert additional defenses and/or objections which may become known or revealed during the course of discovery or investigation.

BUCHANAN INGERSOLL & ROONEY PC

/s/ Geoffrey G. Grivner
Geoffrey G. Griner (#4711)
Kody M. Sparks (# 6464)
500 Delaware Avenue, Suite 720
Wilmington, DE 19801
Telephone: (302) 552-4200
geoffrey.grivner@bipc.com
kody.sparks@bipc.com
Attorneys for Defendant

Dated: October 11, 2024